THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 1121 (S/S) of 2004

Jitendar Kumar S/o Mr. Ram Swaroop Singh,
R/o Village-Devipura, Block-Jaspur,
District Udham Singh Nagar ... .Petitioner

Versus

1. State of Uttaranchal through the Education Secretary Basic, Dehradun.
2. Principal, District Institute of Education Training, Bhimtal District Nainital.
3. Zila Basic Shiksha Adhikari, District Udham Singh Nagar .....Respondents

Mr. Khalil Ahmed, Advocate, Counsel for the petitioner
Standing Counsel for the respondents

Dated 10.7.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Khalil Ahmad, Advocate counsel for the petitioner Standing Counsel for the respondent No.1, 2, &3, and Sri Sudhir Singh, Advocate, counsel for the for the N.C.T.E.

By the present writ petition the petitioner has prayed for a writ of mandamus directing the respondents to consider the petitioner for special B.T.C. and give him appointment as Assistant Teacher in primary school.

Briefly stated, after getting the degree of B.A. from the Ruhelkhand University and B.Ed. form Maharshi

Dayanand University, Rohtak. According to him, he is a resident of District Udham Singh Nagar.

Petitioner has submitted that he is not being considered for special B.T.C. for the appointment of Assistant Teacher on account of correspondence degree of B.Ed. having been obtained from the recognised University, Rohtak.

The matter is fully covered by the decision on 21.8.2000 in **Writ Petition No. 36726 of 2000 Arjun Singh Vs. State of U.P. and others.** Following order was passed:-

"The petitioner has done B.T.C. course by correspondence. It has been alleged in the writ petition that the petitioner's case is similar to the case of Sri Prakash Srivastava decided by this Court on 23.4.1999 by means of writ petition No. 17252 of 1999. This writ petition is also disposed of in the same terms and with the same directions as contained in the aforesaid judgment.

In Writ petition No. 48138/2000 Dharam Singh Vs. State of U.P. and others, the following order was passed:-

"The petitioner has gone B.T.C. correspondence course but he is not being considered for appointment in junior Basic Schools as he has not gone B.T.C. regular course.

It has been held by this court in Ramesh pratap Singh Vs. State of U.P. and others 1993(2) ALR 88, that B.T.C. correspondence course should be treated as equivalent to B.T.C. regular course.

Following the said judgment, this petition is allowed. The petitioner should be treated as equivalent to the regular B.T.C. course and the petitioner should be considered accordingly. No order as to costs."

In ***Ramesh Pratap Singh, and others Vs. State of U.P. and others, A.L.R. 1993 (1), 88****, it has been held as under :-*

"This writ petition has been filed with a prayer for mandamus directing the respondents to take the petitioners interview on the basis of the advertisement dated 27.11.1992 (annexure-9 to the writ petition) and to consider the case of the petitioners on merits for selection and appointment as assistant teacher in Primary Schools and to further consider the petitioners as duly trained

B.T.C., teachers. Under Rule 8 of the U.P. Basic Education (Teachers) service Rules, 1981 as teacher of a junior Basic School must hold a B.T.C., certificate alongwith intermediate certificate. The petitioners have done B.T.C., correspondence training from a recognised training institute viz., Rajkiya Diksha Vidyalaya, Shivkuti of District Allahabad vide copies of the B.T.C., certificate which are enclosed as Annexure-1 to 7 respectively to the writ petition. Hence they claimed for their right to be considered for appointment as Junior B.T.C., teachers. An advertisement dated 28.7.1992 was published in the Daily newspaper "Aaj" advertising 172 posts of Assistant Teachers in Allahabad district and 51 posts of Assistant Teachers in Pratapgarh district. The petitioner applied against the advertisement. This advertisement subsequently cancelled and a fresh advertisement dated 27.11.1992 published and the petitioners had applied against that also. In Paragraph 9 of the writ petition it has been alleged that the petitioners contacted the Basic Shiksha Adhikari who told them that the candidates possessing the B.T.C. correspondence certificate will not be allowed to appear in the interview and will not be

considered for selection. Hence this writ petition has been filed.

2. In my opinion the respondents wrongly refused to consider the teachers who hold the B.T.C., training certificate "Correspondence", if the said certificate has been obtained from a recognised institute. Rule 8 does not make any distinction between two types of certificates on e obtained from a regular course and other through a correspondence course. When the authorities have set up recognized training institute which give, B.T.C., correspondence certificate, it is not understandable how these certificates can be ignored for the purpose of appointment as a teacher. The stand of the respondents will make the certificate useless.

3. In paragraph 3 of the counter-affidavit it has been stated that the purpose of providing the correspondence course was that those untrained teachers who were already in service may get the necessary qualification.

4. In my opinion this cannot be a valid ground for ignoring the certificate acquired by the petitioners. Once the certificate is given by a regular institute it has to have some purpose. Correspondence course now a days are a well known method of giving degrees and certificates, particularly in view

of fact that the regular institutions already have too many students on their roll, and hence no reduce the load correspondence course have been introduced in many institutions. There is no reason to ignore in such correspondence certificates and as such in my opinion the stand of the respondents is arbitrary and illegal. The petition is allowed and mandamus is issued to the respondents to treat the petitioners as having acquired the qualification under Rule 8 of the U.P. Basic Education (Teachers) Service Rules, 1981 and they should be considered for selection and appointment is accordance with merits. The petitioner is allowed, no order as to costs."

In **State of Maharastra Vs. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya, 2006, A.I.R., SCW 2048,** it has been held as under:-

"It is thus clear that the Central Government has considered the subject of Secondary Education and Higher Education at the national level. The Act of 1993 also requires Parliament to consider Teacher Education System 'throughout the country'. NCTE, therefore, in our opinion, is expected to deal with applications for establishing new B.Ed. College or allowing increate

intake capacity, keeping in view 1993 Act and planned and co-ordinated development of teacher-education system in the country.""

Writ petition is therefore, disposed of with this condition that the petitioners shall be entitled for the relief in the event aforesaid conditions of National Council for Teacher Education is followed.

Subject to above, writ petition is disposed. No order as to costs.

10.7.2006 (Rajesh Tandon, J.)